

AMENDED IN SENATE APRIL 13, 2010

SENATE BILL

No. 1409

Introduced by Senator Price
(*Coauthor: Assembly Member Hall*)

February 19, 2010

An act to amend ~~Section 14166.12~~ *Sections 14166.12 and 14166.25* of the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1409, as amended, Price. Medi-Cal: hospital demonstration project funding: County of Los Angeles.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law establishes the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, which revises hospital reimbursement methodologies under the Medi-Cal program in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients. This demonstration project provides for funding, in supplementation of Medi-Cal reimbursement, to various hospitals, including designated public hospitals, nondesignated public hospitals, and private hospitals, as defined, in accordance with certain provisions relating to disproportionate share hospitals.

Existing law establishes the continuously appropriated Private Hospital Supplemental Fund, and allows the California Medical

Assistance Commission to distribute certain amounts from the fund to private hospitals that satisfy specified criteria.

Existing law requires the County of Los Angeles to, for the 2007–08, 2008–09, and 2009–10 project years, make intergovernmental transfers to the state to fund the nonfederal share of increased Medi-Cal payments to those private hospitals that serve the South Los Angeles population formerly served by Los Angeles County Martin Luther King, Jr. ~~Harbor~~ *Jr.-Harbor* Hospital. Existing law requires the intergovernmental transfers to be funded by county tax revenues and to total \$5,000,000 per project year, subject to specified exceptions. Existing law requires these moneys to be deposited in the Private Hospital Supplemental Fund, thus constituting an appropriation, and distributed to the private hospitals designated by the county.

This bill would additionally require the County of Los Angeles to make intergovernmental transfers to the state to fund the nonfederal share of increased Medi-Cal payments to those private hospitals that serve the South Los Angeles population formerly served by Los Angeles County Martin Luther King, Jr. ~~Harbor~~ *Jr.-Harbor* Hospital for the 2010–11, 2011–12, and 2012–13 project years in accordance with the above-described provisions, thereby constituting an appropriation.

Existing law provides for the payment of safety net care pool funds to designated public hospitals, or governmental entities with which they are affiliated, pursuant to the demonstration project. Existing law requires a maximum of \$100,000,000 of the safety net care pool funds claimed and received by the state pursuant to the demonstration project, that are based on the certified public expenditures of the County of Los Angeles, or its designated public hospitals, to be deposited in the continuously appropriated South Los Angeles Medical Services Preservation Fund, for each of the 3 project years, 2007–08, 2008–09, and 2009–10, for the purpose of reimbursing counties for specified costs.

This bill would extend the requirement for deposits into the South Los Angeles Medical Services Preservation Fund to the 2010–11, 2011–12, and 2012–13 project years, thus making an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14166.12 of the Welfare and Institutions
2 Code is amended to read:

3 14166.12. (a) The California Medical Assistance Commission
4 shall negotiate payment amounts, in accordance with the selective
5 provider contracting program established pursuant to Article 2.6
6 (commencing with Section 14081), from the Private Hospital
7 Supplemental Fund established pursuant to subdivision (b) for
8 distribution to private hospitals that satisfy the criteria of Section
9 14085.6, 14085.7, 14085.8, or 14085.9.

10 (b) The Private Hospital Supplemental Fund is hereby
11 established in the State Treasury. For purposes of this section,
12 “fund” means the Private Hospital Supplemental Fund.

13 (c) Notwithstanding Section 13340 of the Government Code,
14 the fund shall be continuously appropriated to the department for
15 the purposes specified in this section.

16 (d) Except as otherwise limited by this section, the fund shall
17 consist of all of the following:

18 (1) One hundred eighteen million four hundred thousand dollars
19 (\$118,400,000), which shall be transferred annually from General
20 Fund amounts appropriated in the annual Budget Act for the
21 Medi-Cal program, except that for the 2008–09 fiscal year, this
22 amount shall be reduced by thirteen million six hundred thousand
23 dollars (\$13,600,000) and by an amount equal to one-half of the
24 difference between eighteen million three hundred thousand dollars
25 (\$18,300,000) and the amount of any reduction in the additional
26 payments for distressed hospitals calculated pursuant to
27 subparagraph (B) of paragraph (3) of subdivision (b) of Section
28 14166.20.

29 (2) Any additional moneys appropriated to the fund.

30 (3) All stabilization funding transferred to the fund pursuant to
31 paragraph (2) of subdivision (a) of Section 14166.14.

32 (4) Any moneys that any county, other political subdivision of
33 the state, or other governmental entity in the state may elect to
34 transfer to the department for deposit into the fund, as permitted
35 under Section 433.51 of Title 42 of the Code of Federal Regulations
36 or any other applicable federal Medicaid laws.

1 (5) All private moneys donated by private individuals or entities
2 to the department for deposit in the fund as permitted under
3 applicable federal Medicaid laws.

4 (6) Any interest that accrues on amounts in the fund.

5 (e) Any public agency transferring moneys to the fund may, for
6 that purpose, utilize any revenues, grants, or allocations received
7 from the state for health care programs or purposes, unless
8 otherwise prohibited by law. A public agency may also utilize its
9 general funds or any other public moneys or revenues for purposes
10 of transfers to the fund, unless otherwise prohibited by law.

11 (f) The department may accept or not accept moneys offered to
12 the department for deposit in the fund. If the department accepts
13 moneys pursuant to this section, the department shall obtain federal
14 financial participation to the full extent permitted by law. With
15 respect to funds transferred or donated from private individuals or
16 entities, the department shall accept only those funds that are
17 certified by the transferring or donating entity that qualify for
18 federal financial participation under the terms of the Medicaid
19 Voluntary Contribution and Provider-Specific Tax Amendments
20 of 1991 (Public Law 102-234) or Section 433.51 of Title 42 of the
21 Code of Federal Regulations, as applicable. The department may
22 return any funds transferred or donated in error.

23 (g) Moneys in the fund shall be used as the source for the
24 nonfederal share of payments to hospitals under this section.

25 (h) Any funds remaining in the fund at the end of a fiscal year
26 shall be carried forward for use in the following fiscal year.

27 (i) Moneys shall be allocated from the fund by the department
28 and shall be applied to obtain federal financial participation in
29 accordance with customary Medi-Cal accounting procedures for
30 purposes of payments under this section. Distributions from the
31 fund shall be supplemental to any other Medi-Cal reimbursement
32 received by the hospitals, including amounts that hospitals receive
33 under the selective provider contracting program (Article 2.6
34 (commencing with Section 14081)), and shall not affect provider
35 rates paid under the selective provider contracting program.

36 (j) Each private hospital that was a private hospital during the
37 2002–03 fiscal year, received payments for the 2002–03 fiscal
38 year from any of the prior supplemental funds, and, during the
39 project year, satisfies the criteria in Section 14085.6, 14085.7,
40 14085.8, or 14085.9 to be eligible to negotiate for distributions

1 under any of those sections, shall receive no less from the Private
2 Hospital Supplemental Fund for the project year than 100 percent
3 of the amount the hospital received from the prior supplemental
4 funds for the 2002–03 fiscal year. Each private hospital described
5 in this subdivision shall be eligible for additional payments from
6 the fund pursuant to subdivision (k).

7 (k) All amounts that are in the fund for a project year in excess
8 of the amount necessary to make the payments under subdivision
9 (j) shall be available for negotiation by the California Medical
10 Assistance Commission, along with corresponding federal financial
11 participation, for supplemental payments to private hospitals, which
12 for the project year satisfy the criteria under Section 14085.6,
13 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for
14 distributions under any of those sections, and paid for services
15 rendered during the project year pursuant to the selective provider
16 contracting program established under Article 2.6 (commencing
17 with Section 14081).

18 (l) The amount of any stabilization funding transferred to the
19 fund, or the amount of intergovernmental transfers deposited to
20 the fund pursuant to subdivision (o), together with the associated
21 federal reimbursement, with respect to a particular project year,
22 may, in the discretion of the California Medical Assistance
23 Commission, be paid for services furnished in the same project
24 year regardless of when the stabilization funds or intergovernmental
25 transfer funds, and the associated federal reimbursement, become
26 available, provided the payment is consistent with other applicable
27 federal or state law requirements and does not result in a hospital
28 exceeding any applicable reimbursement limitations.

29 (m) The department shall pay amounts due to a private hospital
30 from the fund for a project year, with the exception of stabilization
31 funding, in up to four installment payments, unless otherwise
32 provided in the hospital's contract negotiated with the California
33 Medical Assistance Commission, except that hospitals that are not
34 described in subdivision (j) shall not receive the first installment
35 payment. The first payment shall be made as soon as practicable
36 after the issuance of the tentative disproportionate share hospital
37 list for the project year, and in no event later than January 1 of the
38 project year. The second and subsequent payments shall be made
39 after the issuance of the final disproportionate hospital list for the
40 project year, and shall be made only to hospitals that are on the

1 final disproportionate share hospital list for the project year. The
2 second payment shall be made by February 1 of the project year
3 or as soon as practicable after the issuance of the final
4 disproportionate share hospital list for the project year. The third
5 payment, if scheduled, shall be made by April 1 of the project year.
6 The fourth payment, if scheduled, shall be made by June 30 of the
7 project year. This subdivision does not apply to hospitals that are
8 scheduled to receive payments from the fund because they meet
9 the criteria under Section 14085.7 and do not meet the criteria
10 under Section 14085.6, 14085.8, or 14085.9, which shall be paid
11 in accordance with the applicable contract or contract amendment
12 negotiated by the California Medical Assistance Commission.

13 (n) The department shall pay stabilization funding transferred
14 to the fund in amounts negotiated by the California Medical
15 Assistance Commission and shall pay the scheduled payments in
16 accordance with the applicable contract or contract amendment.

17 (o) Payments to private hospitals that are eligible to receive
18 payments pursuant to Section 14085.6, 14085.7, 14085.8, or
19 14085.9 may be made using funds transferred from governmental
20 entities to the state, at the option of the governmental entity. Any
21 payments funded by intergovernmental transfers shall remain with
22 the private hospital and shall not be transferred back to any unit
23 of government. An amount equal to 25 percent of the amount of
24 any intergovernmental transfer made in the project year that results
25 in a supplemental payment made for the same project year to a
26 project year private DSH hospital designated by the governmental
27 entity that made the intergovernmental transfer shall be deposited
28 in the fund for distribution as determined by the California Medical
29 Assistance Commission. An amount equal to 75 percent shall be
30 deposited in the fund and distributed to the private hospitals
31 designated by the governmental entity.

32 (p) A private hospital that receives payment pursuant to this
33 section for a particular project year shall not submit a notice for
34 the termination of its participation in the selective provider
35 contracting program established pursuant to Article 2.6
36 (commencing with Section 14081) until the later of the following
37 dates:

38 (1) On or after December 31 of the next project year.

39 (2) The date specified in the hospital's contract, if applicable.

(q) (1) For the 2007–08, 2008–09, 2009–10, 2010–11, 2011–12, and 2012–13 project years, the County of Los Angeles shall make intergovernmental transfers to the state to fund the nonfederal share of increased Medi-Cal payments to those private hospitals that serve the South Los Angeles population formerly served by Los Angeles County Martin Luther King, Jr.-Harbor Hospital. The intergovernmental transfers required under this subdivision shall be funded by county tax revenues and shall total five million dollars (\$5,000,000) per project year, except that, in the event that the director determines that any amount is due to the County of Los Angeles under the demonstration project for services rendered during the portion of a project year during which Los Angeles County Martin Luther King, Jr.-Harbor Hospital was operational, the amount of intergovernmental transfers required under this subdivision shall be reduced by a percentage determined by reducing 100 percent by the percentage reduction in Los Angeles County Martin Luther King, Jr.-Harbor Hospital’s baseline, as determined under subdivision (c) of Section 14166.5 for that project year.

(2) Notwithstanding subdivision (o), an amount equal to 100 percent of the county’s intergovernmental transfers under this subdivision shall be deposited in the fund and, within 30 days after receipt of the intergovernmental transfer, shall be distributed, together with related federal financial participation, to the private hospitals designated by the county in the amounts designated by the county. The director shall disregard amounts received pursuant to this subdivision in calculating the OBRA 1993 payment limitation, as defined in paragraph (24) of subdivision (a) of Section 14105.98, for purposes of determining the amount of disproportionate share hospital replacement payments due a private hospital under Section 14166.11.

SEC. 2. Section 14166.25 of the Welfare and Institutions Code is amended to read:

14166.25. (a) The Legislature finds and declares all of the following:

(1) In light of the closure of Los Angeles County Martin Luther King, Jr.-Harbor Hospital, there is a need to ensure adequate funding for continued health care services to the uninsured population of South Los Angeles, including, but not limited to, the Cities of Compton, Lynwood, South Gate, and Huntington

1 Park, the southern and central portions of the Cities of Los Angeles,
2 Inglewood, Gardena, and surrounding unincorporated communities.

3 (2) The state, the County of Los Angeles, and all health care
4 providers in the South Los Angeles community must work together
5 to meet the health care needs of the community until the critical
6 hospital services previously provided by Los Angeles County
7 Martin Luther King, Jr.-Harbor Hospital can be restored at this
8 location.

9 (3) The Medi-Cal Hospital/Uninsured Care Demonstration
10 Project provides a critical source of funding for services to
11 low-income communities throughout the state that are provided
12 by California's safety net hospital systems.

13 (4) The special funding provided in this section is predicated
14 on the express intent of the County of Los Angeles to restore
15 hospital services on the hospital campus, to be operated by either
16 a private or public entity. The county has undertaken a specific
17 plan to do so as quickly as possible.

18 (5) The Legislature anticipates that demonstration project funds
19 will be available to help fund the reopened hospital. The nature
20 and amount of that funding cannot be determined until the new
21 structure and operation of the hospital is known.

22 (6) As an interim response to the specific circumstances caused
23 by the closure of this hospital, and until hospital services can be
24 restored at this location, a special fund will be created to receive
25 demonstration project funding to be available to the County of Los
26 Angeles for expenditures to preserve health care services for the
27 uninsured population of South Los Angeles, as defined above.

28 (b) The South Los Angeles Medical Services Preservation Fund
29 is hereby created in the State Treasury. Notwithstanding Section
30 13340 of the Government Code, the fund shall be continuously
31 appropriated to the department for the purposes specified in this
32 section.

33 (c) Subject to the conditions in this section, a maximum amount
34 of one hundred million dollars (\$100,000,000) of the safety net
35 care pool funds claimed and received by the state that are based
36 on the certified public expenditures of the County of Los Angeles
37 or its designated public hospitals shall be transferred to the South
38 Los Angeles Medical Services Preservation Fund for each of the
39 three project years, ~~2007-08, 2008-09, and 2009-10~~ *2010-11,*
40 *2011-12, and 2012-13.*

1 (1) In the event that the director determines that any amount is
2 due to the County of Los Angeles under the demonstration project
3 for services rendered during the portion of a project year during
4 which Los Angeles County Martin Luther King, Jr.-Harbor
5 Hospital was operational, the amount deposited in the fund under
6 this subdivision shall be reduced by a percentage determined by
7 reducing 100 percent by the percentage reduction in the hospital's
8 baseline as determined under subdivision (c) of Section 14166.5
9 for that project year.

10 (2) If, in the aggregate, the federal medical assistance percentage
11 of the certified public expenditures reported by the County of Los
12 Angeles and its designated public hospitals under Section 14166.8,
13 excluding those certified public expenditures reported under
14 paragraph (1) of subdivision (b) of Section 14166.8, in any project
15 year do not exceed the amounts paid or payable to the county and
16 its designated public hospitals in the aggregate under Section
17 14166.6, excluding disproportionate share payments funded with
18 intergovernmental transfers, Section 14166.7, and subdivision (d)
19 for the same project year, then the amount deposited in the fund
20 under subdivision (c) shall be reduced by the amount of excess
21 payments over the federal medical assistance percentage of certified
22 public expenditures.

23 (d) Moneys in the South Los Angeles Medical Services
24 Preservation Fund shall be distributed to the County of Los Angeles
25 in amounts equal to the costs incurred by the county, including
26 indirect costs associated with adequately maintaining the hospital
27 building so that it can be reopened, in providing, or compensating
28 other providers for, health services rendered to the uninsured
29 population of South Los Angeles, including all of the following:

30 (1) Services provided in the multiservice ambulatory care center
31 operating on the former Los Angeles County Martin Luther King,
32 Jr.-Harbor Hospital campus.

33 (2) Services rendered to patients in beds at other designated
34 public hospitals operated by the County of Los Angeles that have
35 been opened specifically for the purpose of serving patients that
36 would have been served by the former Los Angeles County Martin
37 Luther King, Jr.-Harbor Hospital.

38 (3) Services rendered in the county-operated health center and
39 the comprehensive health center formerly operated under Los
40 Angeles County Martin Luther King, Jr.-Harbor Hospital.

1 (4) Services rendered to the uninsured by other public or private
2 health care providers for which the County of Los Angeles has
3 agreed to pay under a contract with the provider as a result of the
4 downsizing or closure of Los Angeles County Martin Luther King,
5 Jr.-Harbor Hospital.

6 (e) As a condition for receiving distributions from the South
7 Los Angeles Medical Services Preservation Fund in any project
8 year, the County of Los Angeles shall assure the director that it
9 will not reduce the county's ongoing, systemwide financial
10 contribution to the county department of health services during
11 that project year for health care services to the uninsured.

12 (f) No funds shall be available from the South Los Angeles
13 Medical Services Preservation Fund for services rendered when a
14 hospital on the former Los Angeles County Martin Luther King,
15 Jr.-Harbor Hospital campus is certified for Medi-Cal participation.

16 (g) If the full amount of the South Los Angeles Medical Services
17 Preservation Fund for any project year is not distributed to the
18 County of Los Angeles, based on the cost of services identified in
19 subdivision (d) that were rendered during that project year, any
20 remaining amounts shall revert to the Health Care Support Fund
21 established pursuant to Section 14166.21.

22 (h) To the extent that the County of Los Angeles receives
23 distributions from the South Los Angeles Medical Services
24 Preservation Fund based on the cost of services rendered by
25 county-operated providers, or based on payments made to private
26 providers for services rendered to the uninsured population of
27 South Los Angeles, the costs of the services rendered shall not be
28 considered for purposes of any of the following determinations
29 with respect to either the county or the private provider:

30 (1) Medi-Cal payments under the selective provider contracting
31 program under Article 2.6 (commencing with Section 14081),
32 including payments to distressed hospitals under Section 14166.23.

33 (2) Baseline amounts, or adjustments thereto, under Section
34 14166.5, 14166.13, or 14166.18.

35 (3) Any other payment under Medi-Cal or other health care
36 program.

- 1 (i) This section shall be implemented only to the extent that the
- 2 director determines that it will not result in the loss of federal funds
- 3 under the demonstration project.

O